IN THE

Supreme Court of the United States.

OCTOBER TERM, 1897.

No. 292.

MARTIN F. MORRIS ET AL., APPELLANTS,

vs.

THE UNITED STATES, APPELLEE.

Come now, Tallmadge A. Lambert, Calderon Carlisle and William G. Johnson, counsel for certain of the appellants herein, and show to the court that by stipulation filed herein and hereto attached, all the counsel for the appellants except two have agreed upon the division of the time allotted by this court and the counsel to be heard; and thereupon move the court to make such order herein as may to the court seem proper.

TALLMADGE A. LAMBERT,
CALDERON CARLISLE,
WM. G. JOHNSON.

Please take notice that on Monday, May 23, 1898, we will bring the foregoing motion to the attention of the court.

TALLMADGE A. LAMBERT,
CALDERON CARLISLE,
WM. G. JOHNSON.

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STIPULATION OF COUNSEL.

Whereas, by the order of the court passed herein on the twentieth day of December, 1897, it was provided *inter alia* that at the option of the parties this cause would be assigned for argument for the second Monday of the next term, and twenty-seven hours allowed for argument, the number of counsel and the division of time allotted to be agreed upon by counsel:

And whereas, the parties appellant elected to accept said provision of said order of the court and by an order passed herein on the tenth of January, 1898, this cause was assigned to be heard on the 17th of October, 1898, after the cases set for that date and twenty-seven hours allowed for the argument thereof;

It is now here stipulated and agreed by and between all the appellants herein, through their respective counsel, that the counsel to be heard and the division of the time allotted by said orders of this court, shall be as follows:

1. On the part of the appellants, Martin F. Morris et al.,

representing the "Kidwell Claim;" time allowed, two hours; counsel to be heard, Nathaniel Wilson and George E. Hamilton.

2. On the part of the appellants, the C. & O. Canal, and Cowen, Bond and Bryan, trustees; time allowed, two hours; counsel to be heard, John K. Cowen, or some one for him.

3. On the part of the appellants, the heirs of Chief Justice Marshall and the heirs of James Marshall; time allowed, two hours; counsel to be heard, James V. Brooke, or some one for him, to be hereafter designated, and A. Leo Knott.*

4. On the part of the appellants, the heirs of Robert Peter; time allowed, two hours; counsel to be heard, Enoch Totten.

5. On the part of the appellants, the heirs of William Easby and the heirs of John B. Easby, surviving trustee; time allowed, two hours; counsel to be heard, H. Randall Webb and John Sidney Webb.

6. On the part of the appellants, the Washington Steamboat Company Limited, and Moncure Robinson and others; time allowed, two hours; counsel to be heard, John Selden.

7. On the part of the appellants, the American Ice Company, the heirs of John Van Riswick, Great Falls Ice Company, the heirs of James L. Barbour, Thos. W. Riley, the heirs of Mary A. S. Kimmell, and Johnson Brothers; time allowed, four hours; counsel to be heard, Tallmadge A. Lambert and Calderon Carlisle.

8. On the part of the appellant, Edward M. Willis; time allowed, two hours; counsel to be heard, Calderon Carlisle and William G. Johnson.

9. On the part of the appellee, the United States; time allowed, nine hours; counsel to be heard, Assistant District Attorney Hugh T. Taggart and Special Assistant Attorney Holmes Conrad.

The order of argument to be hereafter arranged subject to the approval of the court.

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* Counsel for these appellants decline to join in this stipulation.

TALLMADGE A. LAMBERT,
CALDERON CARLISLE,
For American Ice Co.; Heirs of John Van Riswick; Great Falls Ice Co.; Heirs of James L. Barbour; Heirs of Mary A. S. Kimmell; Thomas W. Riley and Johnson Brothers.

CALDERON CARLISLE, WM. G. JOHNSON,
For Edward M. Willis.

NATHANIEL WILSON, G. E. HAMILTON,
For Martin F. Morris et al., representing the Kidwell Claim.

*

For heirs of Chief Justice Marshall.

JOHN SELDEN,
For the Washington Steamboat Company Limited and for Moncure Robinson and others.

COOK & SUTHERLAND,
For Richard J. Beall and heirs of James Beall of James.

ENOCH TOTTEN,
For heirs of Robert Peter, and also W. W. Rapley.

EDWARD A. NEWMAN,
Solicitor for W. W. Rapley.

WM. F. MATTINGLY,
For D. S. Evans.

J. HOLDSWORTH GORDON,
For heirs of Robert Peter.

WEBB & WEBB, LAMBERT & LAMBERT,
For heirs of John B. and William Easby.

J. J. DARLINGTON,
Solicitor for Independent Ice Co.

J. K. COWEN, H. L. BOND, Jr., C. F. T. BEALE,
For C. & O. Canal and Cowen, Bond and Bryan, trustees.

*

For heirs of James Marshall.

HUGH T. TAGGART, HOLMES CONRAD,
For the appellee, the United States.

MACKALL & MAEDEL,
For Elizabeth K. Riley.

* Counsel for these appellants decline to join in this stipulation.

No. 292. 49.

JAMES H. McKENNEY,
CLI

IN THE SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1897.

NO. 292.

MARTIN F. MORRIS ET. AL., APPELLANTS,

vs.

THE UNITED STATES, APPELLEE,

Upon motions to be submitted on Monday, May 23rd, 1898. by Tallmadge A. Lambert and others, having in view—1st. The allotment of time to counsel for various parties in the oral argument, and secondly, the order of the presentation of argument.

In answer to these motions, the undersigned, of counsel for the heirs of Chief Justice John Marshall, dec'd, respectfully submits, that the proposed allotment of two hours jointly to the counsel of the heirs of John Marshall, dec'd, and of the heirs of James Marshall, dec'd, is greatly less than the comparative magnitude of the interests represented by them would justify.

The issue, so far as they are concerned, involves the ownership of the whole property, known as the "Potomac Flats." While, in one view that may be taken of the case, the interests of the two classes of heirs (viz: of John and James Marshall) may be considered as joint and harmonious, it may be that in the progress and adjudication of the case, they may be regarded as not only distinct, but in some respects, antagonistic. Under these circumstances, the allowance of but two hours for the oral argumant in their behalf, would seem entirely out of proportion.

Two hours to counsel representing each class of heirs, would not certainly be excessive. A glance at the record will abundantly enforce this view.

Upon the second branch of the motion, viz: as to the order of the argument, the undersigned will urge no objection to the plan proposed.

Respectfully submitted by
JAS. V. BROOKE, of Counsel
for heirs of Jno. Marshall, dec'd.

May 23d, 1898.

No. 49.
Stipulation as to argument.
Filed Oct. 10, 1898.

Office Supreme Court U. S.
FILED,
OCT 10 1898
JAMES H. McKENNEY,
CLERK.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1898.

No. 49.

M. F. MORRIS ET AL., APPELLANTS,

vs.

THE UNITED STATES.

STIPULATION PROVIDING FOR ORDER OF ORAL ARGUMENT, SUBJECT TO THE APPROVAL OF THE COURT.

LAW REPORTER PRINT.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1898.

No. 49.

M. F. MORRIS FT AL., APPELLANTS,

vs.

THE UNITED STATES.

It is hereby stipulated between the Uuited States, appellee, and all of the appellants herein, except the heirs of John Marshall and of James Marshall, that when this cause comes on for hearing, and after the argument of the appeals of John Marshall's heirs and James Marshall's heirs, as directed by the order of the court of May 31st, 1898, the order of argument shall, subject to the approval of the court, be as follows:

I.

That the appeals of the claimants under the Kidwell patent shall be heard as if one appeal, the cause being opened on behalf of said appellants and so closed, the United States as appellee taking such time out of the nine hours at their disposal in the whole cause under the stipulation as their counsel may be advised.

II.

That the appeals of the following appellants, Richard J. Beall, the trustees of the estate of William Easby, the heirs of Robert Peter, the Chesapeake and Ohio Canal Company and Cowen, Bryan and Bond, trustees, shall be next heard as if one appeal, the cause being opened on behalf of each appellant and so closed, the United States taking such time out of the nine hours at their disposal in the whole cause under the stipulation as their counsel may be advised; counsel for appellants to divide the eight hours at their disposal as provided in their stipulation, but each of their appeals must be opened.

III.

That all other appeals shall be heard together, the appellants to open, the United States, the appellees, to follow, and appellants to close; appellants to divide the eight hours at their disposal, as provided in their stipulation, but each of their appeals must be opened.

HOLMES CONRAD,
HUGH T. TAGGART,
Counsel for the United States.

CALDERON CARLISLE,
TALLMADGE A. LAMBERT,
WM. G. JOHNSON,
Counsel for Wm. G. Johnson, assignee of American Ice Company; Avarilla Lambert, Martina Carr, heirs of John Van Riswick, deceased; Great Falls Ice Co.; Annie E. Barbour, Harrison S. Barbour, James F. Barbour, Mary V. McCartney, Annie E. Irwin, Annie M. Barbour, Regina Rengifo, and

George D. Barbour, widow and heirs of James L. Barbour; Thomas W. Riley; Mary E. S. Kimmell Gray, Wm. L. Kimmell, Frank Kimmell, Lester Kimmell, Mary G. Kimmell, Rex Kimmell, Louise M. Kimmell, Eunice Kimmell and Frances E. Kimmell, children, and Gertrude C. Kimmell Wing, widow of Andrew Jackson Kimmell, deceased, heirs of Mary A. S. Kimmell; J. Harrison Johnson and Annie E. Johnson, Charles B. Church and William Wimsatt; Edward M. Willis.

HENRY RANDALL WEBB,
JOHN SIDNEY WEBB,
Counsel for the Trustees of Estate of William Easby.

ENOCH TOTTEN,
J. H. GORDON,
Counsel for the heirs of Robert Peter.

J. K. COWEN,
HUGH L. BOND, JR.,
C. F. T. BEALE,
Counsel for the Chesapeake and Ohio Canal Company and Cowen, Bryan and Bond, Trustees.

GEORGE E. HAMILTON,
NATHL. WILSON,
Counsel for claimants under the Kidwell Patent.

JOHN SELDEN,
Counsel for the Washington Steamboat Company (Limited) and Moncure Robinson and others.

J. J. DARLINGTON,
Counsel for the Independent Ice Company.

ENOCH TOTTEN,
EDWARD A. NEWMAN,
Counsel for William W. Rapley.

WM. F. MATTINGLY,
Counsel for Daniel S. Evans.

COOK & SUTHERLAND,
Counsel for Richard J. Beall and the heirs of James Beall of James.

MACKALL & MAEDEL,
Counsel for Elizabeth K. Riley.

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THE UNITED STATES, APPELLEE.

MOTION TO APPORTION TIME FOR ORAL ARGUMENT.

Brief of Counsel for heirs of James Marshall for extension of time to two hours.

A. Leo Knott, of counsel for the heirs of James Marshall, in answer to the petition with stipulation of Calderon Carlisle and others, counsel for certain appellants in this cause, submitted to this Honorable Court, says:

1. That the time in said petition suggested to be allotted to the heirs of John Marshall and of James Marshall, namely, two hours, is wholly inadequate to a presentation of the claims of these two parties.

II. The petition presents these separate and distinct claims of the heirs of John and of James Marshall as one in character, substance and interest; whereas in point of fact, while the interests of these two classes of claimants are the same up to a certain point, as far as their

claims are derived from the Culpeper or Fairfax grant of the Northern Neck of Virginia, they are, from that point, not only divergent, but hostile and antagonistic to each other, that is so far as the claim of the heirs of James Marshall is derived from the Maryland Charter to Lord Baltimore, as will be seen by the Record in the case and the opinion of the Supreme Court of the District of Columbia.

III. The claim of the heirs of James Marshall, as also that of the heirs of John Marshall has to meet not only the antagonism of the United States, but that of all the counsel for the other appellants; for the reason that if the said claims should be held to be valid, such result would oust the title not only of the United States, but the titles of most, if not entirely of all, of the other appellants.

IV. That there are many questions of law involved in the contention of the said Marshall heirs, several of them lying outside of the ordinary range of questions touching title to real estate, which questions are important and vital to the interests of these claimants, especially the heirs of James Marshall, for even the most cursory discussion of which one hour is too limited a time.

Wherefore, it is respectfully submitted and prayed that the heirs of James Marshall be allowed the full time of two hours for the oral argument to be made by their counsel.

Respectfully submitted,

A. LEO KNOTT,

Of Counsel for the heirs of James Marshall.